

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 19-CR-127
)	
v.)	Milwaukee, WI
)	
DONALD A. STENSON,)	August 8, 2022
)	9:30 a.m.
Defendant.)	

TRANSCRIPT OF EVIDENTIARY HEARING
BEFORE THE HONORABLE LYNN ADELMAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff

UNITED STATES OF AMERICA:

United States Dept. of Justice
Computer Crime and Intellectual
Property Section
Child Exploitation and
Obscenity Section
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U.S. Official Court Reporter: JENNIFER L. STAKE, RDR, CRR
Proceedings recorded by computerized stenography, transcript
produced by computer-aided transcription.

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I N D E X

WITNESSES

ALL WITNESSES:

PAGE:

For the Defendant:

DONALD ARTHUR STENSON:

Direct Examination by Mr. Plantinga

4:25

Cross-Examination by Mr. Clayman

14:10

EXHIBITS

None

TRANSCRIPT OF PROCEEDINGS

THE COURT: This is US versus Stenson, 19-CR-127.
Appearances, please.

MR. CLAYMAN: Good morning, your Honor. Bill Clayman,
Abbey Marzick, and Megan Paulson for the United States.

MS. MARZICK: Good morning.

MS. PAULSON: Good morning.

MR. PLANTINGA: The defendant, Donald Stenson, appears
in person and by Attorney Victor Plantinga. Good morning, your
Honor.

THE COURT: Okay. Mr. Plantinga, this is a hearing on
your motion. You want to proceed?

MR. PLANTINGA: Yes.

THE COURT: Okay.

MR. PLANTINGA: I would like to call Mr. Stenson to
the stand.

THE COURT: Okay.

Please raise your right hand.

(Defendant sworn.)

THE COURT: Go ahead.

DONALD ARTHUR STENSON,
called by the Defendant as a witness herein, having been first
duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. PLANTINGA:

1 Q. Mr. Stenson -- or, sorry, can you state your name for the
2 record.

3 A. My name is Donald Arthur Stenson.

4 Q. Okay. And please have the microphone close to you and
5 please speak into it loudly.

6 How old are you, Mr. Stenson?

7 A. I'm 66 years old.

8 Q. All right. And during your lifetime, have you lived
9 overseas?

10 A. Yes, I have.

11 Q. Okay. For approximately how long a period of time did you
12 live overseas?

13 A. About 30 years.

14 Q. And when did you start living overseas?

15 A. Well, I started from 1988 to 1989, and then I came back to
16 America for one year, and then I left in 1990 and only came
17 back for summer vacations until I was arrested in 2019.

18 Q. And in the time that you spent overseas, and I believe you
19 said it was 30 years, where -- what countries did you live in?

20 A. Columbia, South America, for one year from '88 to '89.
21 Taiwan from 1990 to '96. Thailand from -- from 1996 to 2019.
22 And two years there, 2012 and 2013, I flew between Thailand and
23 Equatorial Guinea for -- month by month.

24 Q. Okay. And what type of work were you doing during those
25 years?

1 A. In Columbia -- Columbia, I taught first grade at a
2 international school, Colegio Albania. And then I came back to
3 Milwaukee Public Schools and finished up here and then moved to
4 Taiwan to teach at Taipei American School from 1990 to '96.
5 And then I went to Thailand and taught at Ruamrudee
6 International School.

7 Q. Could you spell that for the court reporter.

8 A. R-U-A-M-R-U-D-E-E International School.

9 Q. Okay.

10 A. And I worked there till 2001. And then I did volunteer
11 work at Ekburapa School, E-K-B-U-R-A-P-A, until 2006.

12 Q. Okay. And what grades were you teaching?

13 A. I taught -- I taught -- in Taiwan, I taught second grade
14 for six years. In Thailand, I taught second and third grade
15 ESL for the first year and the remaining four years I taught
16 science and --

17 Q. Was there a time in the 2000s when you left teaching?

18 A. Yes. In -- essentially I left full-time teaching in 2001.

19 Q. What did you do then?

20 A. I was a consultant for Harcourt Brace Publishing Company.

21 Q. All right. And how long did you do that?

22 A. It was until about 2004.

23 Q. Did you leave the educational field at any time in the
24 2000s?

25 A. I'm -- I've always from that time on, I was in -- a

1 consultant in -- I was a consultant until when I was working in
2 -- for Harcourt Brace. And I did teach 2012 and 2013 adult --
3 adult science to prepare Africans to work in offshore oil
4 platforms. And I left it in 2012.

5 Q. Did you go into another line of work right around the 2002
6 time frame?

7 A. Yes. I bought a condo because I -- I started studying
8 Ph.D. and philosophy and religious studies, and I wanted to
9 live near the university, so I bought a small condo in 2002.

10 Q. And did that lead to anything else in terms of a career
11 path?

12 A. I -- I enjoyed the ownership of the condo and I thought
13 that I could make money from that, and I bought a condo in
14 downtown Bangkok in 2004. And it was immediately rented, so
15 then I started using my savings and buying more condos.

16 Q. How many units, condo units, did you own at the time you
17 were indicted in this case?

18 A. Actually there were 34 in my name, but some investors were
19 partial owners of other -- of some of them.

20 Q. Now, you were arrested when on this case?

21 A. On July 12th, 2019.

22 Q. And you mentioned the number of condo units you owned. Did
23 you have -- were those all overseas?

24 A. They were all in the City of Bangkok.

25 Q. And you were arrested where?

1 A. In West Allis.

2 Q. Did you have anyone back in Thailand to manage your
3 properties?

4 A. I had a informal personal assistant. I was -- because of
5 my age, I was trying to wean myself of managing the day to day
6 small things with the 34 units.

7 Q. Did that cause you any anxiety, having all these properties
8 you said in the City of Bangkok, but here you are over in West
9 Allis?

10 A. Of course it did.

11 Q. Okay. And when you were arrested, you said July 12th,
12 2019, how much time did you spend in custody before you were
13 eventually released?

14 A. I was arrested on a Friday afternoon and kept in custody
15 for about 66 hours in a small room with nothing, no glasses, no
16 toothpaste, nothing, in West Allis Police Department.

17 Q. And then you were transferred?

18 A. Then on Monday before noon I was transferred here.

19 Q. And how much time in all did you spend in custody after you
20 were first arrested in West Allis?

21 A. Um, until what point?

22 Q. You were released on April 15, 2020?

23 A. About nine months.

24 Q. Okay. Did you have any issues with anxiety prior to the
25 time you first went into custody on this case?

1 A. No. And I did not need mental health care before that
2 either.

3 Q. Okay. What about during the time, you said approximately
4 nine months, at the Waukesha County Jail?

5 A. Yes.

6 Q. Okay. And can you describe that for the Court.

7 A. It was hellish. I was bullied, and I'm -- I was 63 at the
8 time. I had no experience ever in that type of institution.
9 It was so bad and -- that I kept requesting my public -- or my
10 federal defender to get me out on bail. And his caseload
11 seemed too large, which led me to look for somebody who could
12 get me out on bail.

13 Q. And you were eventually released on bail; is that correct?

14 A. Yes, but -- yes, I was.

15 Q. And what date was that, if you know?

16 A. That was April 15th, 2020.

17 Q. April 15, 2020?

18 A. Yes.

19 Q. Okay. And where were you living after you were released?

20 A. At my older sister's house in Madison, Wisconsin.

21 Q. Were there any other people living in the house at the
22 time?

23 A. Yes. My -- my sister, her elderly husband, and my son was
24 there initially. And when my mother came in in July, from July
25 19th to 31st for home hospice care, she died in the house while

1 I was there. And -- oh, the son of my sister was there, too,
2 my nephew.

3 Q. Okay. How would you describe the home atmosphere when you
4 were living out in Madison?

5 A. Hostile. Toxic. I did not know of my nephew's mental
6 illness. He tormented me, wanted me out of the house from the
7 day I got in there.

8 Q. Now, you indicated that you wanted to hire new counsel; is
9 that correct?

10 A. At what point?

11 Q. During the time you lived in Madison you hired new counsel;
12 right?

13 A. No. He was hired before that and got me out on bail.

14 Q. Okay. But you were living in Madison, your counsel was
15 located here in Milwaukee?

16 A. Exactly. Yes.

17 Q. Did the distance between Madison and Milwaukee lead to any
18 issues as far as your understanding of this case?

19 A. Yes. I didn't feel that there was good communication
20 between myself and my attorneys.

21 Q. Mr. Stenson, you indicated earlier about your work in
22 education. Do you have any training in the law?

23 A. None.

24 Q. Did you have any understanding of the legal system in the
25 US at the time that you were indicted?

1 A. No, very little. I -- nothing.

2 Q. In fact, were you even able to -- not that this is a good
3 source, necessarily, but even learn about the US legal system
4 from TV or news or anything like that when you were living over
5 in Thailand?

6 A. No, not even -- not even as a child. But when I was
7 staying in Madison, my sister's elderly husband liked to watch
8 Perry Mason every day.

9 Q. Right. Now I'd like to talk to you a little bit about
10 during the time you were living in Madison at your sister's
11 house. How would you describe your anxiety in that time?

12 A. It was quite high. But fortunately, I requested from my
13 probation officer to get mental health care. And I had
14 somebody to talk to every other week and -- and to try to
15 control it. But it was very high because my sister was not
16 what I thought she was. I hadn't seen her that much for --
17 over the decades. And she -- she was hostile, along with her
18 son.

19 Q. Okay. Did you start taking any medication in that time?

20 A. I was taking medication since even before then. So I
21 continued to take medication.

22 Q. And what medication were you taking?

23 A. Well, I took a lot of -- I mean, I took a lot of
24 supplements, but the medication that I would take would be
25 every week I would take a clonazepam to get good sleep about

1 once a week, or otherwise I used to only take benzodiazepine or
2 benzos on airplane flights because of anxiety.

3 Q. Okay. So for sleeping you would take clonazipine; correct?

4 A. Clonazepam, yeah.

5 Q. Did that help?

6 A. It totally relaxed me and knocked me out and let me have
7 delicious sleep. That's why I was -- I didn't want to get
8 hooked. I took it once a week.

9 Q. Now, at some point you signed a plea agreement in this
10 case; is that correct?

11 A. That's right.

12 MR. PLANTINGA: Judge, I'd ask to take judicial
13 notice. It's Document 68 in the record, and it appears that it
14 was signed on April 23rd, 2021.

15 THE COURT: Without objection.

16 MR. PLANTINGA: Okay.

17 BY MR. PLANTINGA:

18 Q. So April 23, 2021, you signed the plea agreement. Did you
19 appear in court concerning a change of plea in or around that
20 time?

21 A. The day -- the day, April 23rd, yeah. Yes.

22 Q. Okay. So the same day that you signed the plea agreement,
23 you appeared in court; correct?

24 A. Yes.

25 Q. Had you taken any medication on the morning that you

1 appeared in court?

2 A. Yes, I did.

3 Q. And what did you take?

4 A. Clonazepam.

5 Q. How -- how did that affect you?

6 A. It made me appear calm when inside I was very -- what
7 should I say -- anxious and scared and confused.

8 Q. Do you feel that your mental state after you had taken that
9 medication had an affect on your understanding of the court
10 proceedings that day?

11 A. I believe it certainly did, yes.

12 Q. And what -- what effect would that have, do you believe?

13 A. It made me even more compliant than I have been my entire
14 life. I mean, I'm -- it made me -- it made me sign something
15 that I definitely did not mean to sign.

16 Q. Did it -- you said you appeared in court on that same day,
17 April 23, 2021.

18 A. Yes.

19 Q. Did it also have any effect on you during that court
20 appearance?

21 A. During the court appearance, of course it was keeping me
22 calm because I was totally befuddled and facing the worst
23 dilemma of my life.

24 Q. Okay. Is -- do you believe that your plea was knowing and
25 voluntary?

1 A. No, I don't.

2 Q. And it's your desire to withdraw your plea and proceed to
3 trial; is that correct?

4 A. Yes, it is. More than anything I want to go to trial and
5 be given my constitutional right to a trial.

6 MR. PLANTINGA: Okay. That's all I have for this
7 witness. Thank you, Judge.

8 MR. CLAYMAN: Thank you, your Honor.

9 CROSS-EXAMINATION

10 BY MR. CLAYMAN:

11 Q. Good morning, Mr. Stenson. You were asked about the change
12 of plea hearing just now. Do you recall that?

13 A. Yes, on April 23rd.

14 Q. Right. And you recall that the Court asked you questions
15 at that hearing; correct?

16 A. Yes.

17 Q. And you said you understood those questions; correct?

18 A. Yes, I did.

19 Q. And you told the Court that you would answer the Court's
20 questions truthfully; correct?

21 A. Yes.

22 Q. You actually said that you understood you could be
23 prosecuted for providing false statements if you didn't answer
24 the Court's questions truthfully at that hearing; right?

25 A. Yes.

1 MR. PLANTINGA: Could I ask counsel to use the
2 microphone. I'm having a little trouble hearing. Thanks.

3 BY MR. CLAYMAN:

4 Q. And at the plea hearing, you told the Court that you were
5 pleading guilty because that was the most sensible option for
6 you; correct?

7 A. I don't remember saying it was the most sensible option.

8 Q. Do you remember telling the Court that you had an
9 opportunity to talk about the plea with your lawyers?

10 A. I didn't want to talk to my lawyers anymore at that point.
11 I was frightened of my lawyers. I did -- I wanted to relieve
12 my lawyer of the duty at that point. I didn't -- I was afraid
13 of if I refused to sign it that that lawyer would not put his
14 heart into defending me on a trial. And that's also why I was
15 confused.

16 Q. Mr. Stenson, you told the Court that you had an opportunity
17 and enough time to talk about the plea agreement with your
18 counsel at the plea hearing; correct?

19 A. I did, but...

20 Q. You also told the Court that you were very satisfied with
21 the representation your counsel provided; is that correct?

22 A. Yes, but I was terrified at the time.

23 Q. You didn't tell the Court you were terrified, did you?

24 A. Right. I didn't want to upset things. I didn't understand
25 the --

1 Q. Right. You said you were very --

2 A. -- I --

3 Q. -- satisfied with counsel; is that correct, Mr. Stenson?

4 A. I said it, but I -- I obviously apologize to the Court and
5 to the judge for -- for giving mis -- what -- it wasn't
6 misinformation, it was just confused information, because I had
7 no other alternative because I didn't want to make a -- a
8 ruckus in here. I didn't want to lose the judge's respect. I
9 felt like I was going with the flow, but I did not believe it
10 sincerely.

11 Q. You told the Court that you reviewed the indictment; is
12 that correct, Mr. Stenson?

13 A. The indictment?

14 Q. The indictment. You told the Court that you had reviewed
15 that document with your counsel; correct?

16 A. I don't remember anything about the indictment.

17 Q. The charging document in this case, Mr. Stenson. You told
18 the Court you understood the charges against you; correct?

19 A. I was -- I was saying yes to everything at that time
20 because I was frightened and confused.

21 Q. So did you tell the Court that you had reviewed the
22 indictment, Mr. Stenson?

23 A. I don't remember.

24 Q. Did you tell the Court that you understood the charges
25 against you?

1 A. I said yes to everything that day.

2 Q. Mr. Stenson, did you tell the Court that you understood the
3 charges against you at the plea hearing?

4 A. Yes, sir.

5 Q. And you told the Court you'd reviewed the plea agreement;
6 correct?

7 A. Yeah.

8 Q. You told the Court that you understood the rights you were
9 giving up by pleading guilty; correct?

10 A. I may have told him that. That's -- I said yes to
11 everything, without even hearing.

12 Q. You didn't mention that you were -- you had taken
13 clonazepam that morning, correct, at the plea hearing?

14 A. No, that was not mentioned.

15 Q. Did you take any medication prior to today's hearing, Mr.
16 Stenson?

17 A. No, because I'm in custody.

18 Q. You also told the Court that the statement of facts that
19 were submitted with your plea agreement, that you had reviewed
20 those; correct?

21 A. Statement of facts?

22 Q. The description of your offense conduct?

23 A. Oh. Yes, and I completely disagreed with it.

24 Q. You told the Court that those statement of facts -- that
25 that was substantially correct, isn't that right?

1 A. Did I?

2 Q. I'm asking you, Mr. Stenson. Did you tell the Court at the
3 change of plea hearing that the facts that were submitted with
4 your plea agreement were correct?

5 A. Yes, I did.

6 Q. You actually told the probation officer that you regretted
7 your conduct in this case; is that correct?

8 A. I didn't tell him anything of the sort. I -- no.

9 Q. You've never told the probation office that you regretted
10 your conduct in this case, Mr. Stenson?

11 A. The only conduct I regret is signing the plea agreement
12 because I was cowed and confused and afraid to fire my attorney
13 on that very day.

14 Q. At the plea hearing, Mr. Stenson, you told the Court that
15 no one had promised you anything other than what was laid out
16 in the plea agreement in order for you to plead guilty; is that
17 correct?

18 A. I said yes to that.

19 Q. And you told the Court you were pleading guilty
20 voluntarily; correct?

21 A. Yes, I said that. I believe I said that. But it wasn't
22 voluntary.

23 Q. And you told the Court that you were pleading guilty
24 because you were, in fact, guilty of the conduct described in
25 the statement of facts in the plea agreement; correct?

1 A. Yes, but I said yes to everything that day.

2 MR. CLAYMAN: One moment, your Honor.

3 THE COURT: I'm sorry?

4 MR. CLAYMAN: If I could have one moment, your Honor.

5 THE COURT: Yeah, yeah.

6 (Government attorneys confer off the record.)

7 MR. CLAYMAN: Nothing further from the Government,
8 your Honor.

9 MR. PLANTINGA: Nothing more for the defense. Thanks.

10 THE COURT: All right. Thank you. You're -- you can
11 step down, Mr. Stenson.

12 (Witness excused.)

13 THE COURT: So if anybody wants to make any statement
14 or argument now, I'll hear it; or if anybody wants to submit
15 anything, I'll do it that way, too, whatever counsel's pleasure
16 is.

17 MR. PLANTINGA: Judge, from the defense perspective, I
18 think everything that we would have to say is either in the
19 written materials already filed with the Court or in today's
20 testimony, so I'm not looking to be heard further.

21 THE COURT: Okay. Government?

22 MR. CLAYMAN: Just briefly, your Honor, I would -- I
23 would just point the Court to the transcript of the plea
24 hearing where the defendant, Mr. Stenson, readily admitted to
25 his voluntariness of pleading guilty. He acknowledged the

1 statement of facts were correct. He told the Court
2 unambiguously that he was pleased with his counsel and had no
3 issues understanding the charges against him or anything in the
4 plea agreement. I think in a scenario like this where the
5 transcript of the plea hearing is unambiguous and it clearly
6 contradicts all of the after-the-fact assertions the defendant
7 is making that the Court should defer to those statements that
8 the defendant made under oath at the plea hearing. And we
9 would ask that the Court deny the motion.

10 THE COURT: Okay. I think probably the most sensible
11 thing to do would be for me to have a written decision. And
12 I'll do that shortly. Okay. Thank you.

13 MR. PLANTINGA: All right. Thank you.

14 MR. CLAYMAN: Thank you, your Honor.

15 MS. PAULSON: Thank you, your Honor.

16 (At 9:55 a.m. the hearing ended.)
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C E R T I F I C A T E

I, JENNIFER L. STAKE, RDR, CRR, an Official
Court Reporter for the United States District Court for the
Eastern District of Wisconsin, do hereby certify that the
foregoing is a true and correct transcript of all the
proceedings had and testimony taken in the above-entitled
matter as the same are contained in my original machine
shorthand notes on the said trial or proceeding.

Dated this 15th day of November, 2022.
Milwaukee, Wisconsin.

Jennifer L. Stake, RDR, CRR
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ELECTRONICALLY SIGNED BY JENNIFER L. STAKE
Official Court Reporter, RDR, CRR
